

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Application for Review of Decision of)	CC Docket No. 02-6
The Schools and Libraries Division of the)	
Universal Service Administrative Company)	
)	
Appeal of Funding Year 2006-2007 Application)	
Denial and the Denial of the Relevant Appeal)	
)	
Funding Year 2006)	
Form 471 Application Number: 538000)	
Funding Request Numbers: 1489933 and 1489945)	
Applicant: New Media Technology Charter School)	
Philadelphia PA (BEN 16028438))	

APPEAL OF NEW MEDIA TECHNOLOGY CHARTER SCHOOL

New Media Technology Charter School, hereby respectfully appeals the decision of the Schools and Libraries Division (“SLD”) of the Universal Service Administrative Company (“USAC”), to uphold its decision to not fund FY2006 application 538000, funding requests 1489933 and 1489945.

On November 29th, 2006, SLD issued a Funding Commitment Decision Letter which denied the funding for the captioned application. The reason for the denial was listed as “Given demand, the funding cap will not provide for Internal Connections/Basic Maintenance of Internal Connections at your approved discount level to be funded. Please see www.universalservice.org/sl/” This action was a direct result of the approved discount level being cut to 20% from an expected 90%.

On January 8th, 2007, Youth Empowerment Services (“YES”), the school’s e-rate

consultant, filed a timely appeal¹ with SLD with respect to this matter. In that appeal, we stated that SLD had erred by exchanging the discount percentage the school was entitled to with unknown “third-party” data that was never disclosed to the applicant, therefore never giving the applicant either the chance to either provide additional information to substantiate the 90% requested discount level, nor the chance to refute the “third-party” data.

On February 13th, 2007, Mr. Jesse Johnson of the PIA Appeals department responded to our appeal and requested additional information² to substantiate our position.

On February 28th, 2007, YES responded to Mr. Johnson’s inquiry. Our response³ included an annotated version of the original survey that was submitted to PIA reviewers in September 2006, along with additional surveys to help validate the school’s discount percentage.

On April 18th, 2007, during a routine application status review using the USAC website, YES discovered the school’s discount level switched from 20% to 60% and that the funding would be denied because the funding cap would not provide for Priority 2 services at the 60% discount level. It was then that YES emailed Jesse Johnson and requested an explanation of why the discount level changed from 20% to 60% instead of 90%.

On May 7th, 2007, after receiving no response to its first email, YES emailed Mr. Johnson again regarding the discount percentage chance. Mr. Johnson responded⁴ by stating “The School (NEW MEDIA TECHNOLOGY CHARTER SCHOOL) chose to use NSLP form sent to students as survey form, which is ineligible as per program rules.” As this explanation

¹The filed SLD appeal is attached as Exhibit A

²The PIA Appeal department information request is attached as Exhibit B

³The response to the PIA Appeal department is attached as Exhibit C

⁴The correspondence between YES and Mr. Johnson is included as Exhibit D

did not explain why the discount percentage specifically changed from 20% to 60%, instead of 90%, and nor did it enumerate the program rule(s) that were apparently violated, YES emailed⁴ Mr. Johnson on May 19th, 2007 and requested information on where to locate the program rule(s) that were being referenced.

On May 22nd, 2007, Mr. Johnson replied⁴ to our request and cited the following rule: “Title 1 eligibility. This method uses eligibility for Title 1 funds as the criterion for estimating the level of poverty in a particular school. Some measures of poverty eligible under Title 1 are indirect estimates of poverty and do not necessarily equate to the measure of poverty for the Schools and Libraries program discounts, namely eligibility for NSLP.”

- <http://www.universalservice.org/sl/applicants/step05/alternative-discount-mechanisms.aspx#8>

Mr. Johnson then stated, “National School (Free & Reduced) Lunch applications do not qualify as valid survey forms.”

YES never received SLD’s “Administrator’s Decision on Appeal – Funding Year 2006-2007” in response to our appeal.

It is our contention that SLD erred in this matter. First, upon review of paragraphs 3 and 8 of the Alternative Discount Mechanisms Fact Sheet (located at <http://www.universalservice.org/sl/applicants/step05/alternative-discount-mechanisms.aspx#3> and <http://www.universalservice.org/sl/applicants/step05/alternative-discount-mechanisms.aspx#8>, respectively), we find the National School Lunch Program application meets all of the criteria set forth in paragraph 3, while meeting none of the disqualifying criteria set forth in paragraph 8. Moreover, we disagree with Mr. Johnson’s assessment that the school is using Title 1 eligibility as evidence of NSLP eligibility. We instead contend the school is using

an instrument designed to determine NSLP (and not Title 1) eligibility for the purpose of conclusively determining the measure of poverty.

We would ask the Commission to recognize the school is attempting to follow e-rate program requirements that are known to it in good faith, and we respectfully request the Commission overturn the SLD decision in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ch A. Quintanilla', with a stylized, overlapping 'A'.

Chris A. Quintanilla
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Agent for New Media Technology Charter School

May 25th, 2007